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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,799	08/21/2003	Ken Hirunuma	P23759	7413
7055	7590	05/16/2005	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,799

Applicant(s)

HIRUNUMA ET AL.

Examiner

Joshua L. Pritchett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to Amendment after non-final rejection filed March 15, 2005. Claims 1, 3 and 8 have been cancelled, claim 2 has been cancelled and claims 17-29 have been added as requested by the applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 12-16 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki (US 4,067,027).

Regarding claims 1 and 3, Yamazaki teaches a binocular telescope (Fig. 3) with a photographing function (col. 1 lines 5-10), the binocular telescope having a pair of observation optical system for which the interpupillary distance can be adjusted (col. 2 lines 55-57), and a photographing optical system, the pair of the observation optical system being utilized as a focusing device for the photographing optical system (col. 2 lines 58-68), the binocular telescope comprising a first focusing mechanism that focuses the pair of observation optical system so as

to observe an object through the pair of observation optical system (col. 2 lines 58-68); a second focusing mechanism that focuses the photographing optical system (col. 2 lines 58-68); an association mechanism that associates the first and second focusing mechanism with each other in such a manner that the pair of observation optical systems and the photographing optical system are always kept in a focused state (col. 2 lines 58-68; col. 3 lines 13-15); a pair of reticle elements (11) on which reticles are formed, and which are provided in the pair of observation optical systems for focusing the pair of observation optical systems with a predetermined dioptric power during an operation of the first and second focusing mechanism, each of the pair of reticle elements being arranged at an in-focus position of an objective lens system of the observation optical system, a position of an ocular lens system of the observation optical system being adjustable relative to the position of the reticle elements so as to adjust the dioptric power (col. 3 lines 13-15); and an interpupillary distance adjusting mechanism for adjusting the distance between the optical axes of the pair of observation optical systems (col. 2 lines 55-57), when the optical axes of the pair of observation optical systems are made completely coincident with the interpupillary distance of the user by using the interpupillary distance adjustment mechanism so that the reticle images of the pair of reticle elements are fused, the fused reticle images are geometrically non-coordinate with each other (col. 2 lines 55-57). Yamazaki lacks specific reference to either image symmetry or a fused image. The symmetry of the image formed by the Yamazaki reference would depend on the image viewed. If the viewed image had either point or line symmetry then the reticle image would then have either point or line symmetry. It is extremely well known in the art to have a fused reticle image to allow a person to properly see and interpret the image sent to the human eye. If the reticle image were not fused

then the image would not appear in focus to the human eye. Yamazaki teaches focusing adjustment to allow the viewer to see an image that is focused and therefore it would be obvious to fuse the reticle image to ensure the viewed image is in focus. It would be obvious to one of ordinary skill in the art at the time the invention was made to have the reticle image of Yamazaki be point or line symmetrical for the purpose of aesthetic appreciation. It would further have been obvious to one of ordinary skill in the art to have the Yamazaki invention have a fused reticle image as is known in the art for the purpose of allowing the human eye to properly see and interpret the viewed image.

Regarding claims 12 and 25, Yamazaki teaches the association mechanism comprises a rotary wheel member (14) having a manually operated rotary wheel; the observation optical system comprises two optical system elements that are movable along the optical axis of the observation optical system to focus the observation optical system (Fig. 3; col. 2 lines 58-68); the first focusing mechanism forms a first movement-conversion mechanism for converting a rotation movement of the rotary wheel member into a relative back and forth movement of the two optical system elements (col. 2 lines 58-68); the photographing optical system is movable relative to an imaging plane along the optical axis of the photographing optical system to focus the photographing optical system; and the second focusing mechanism forms a second movement conversion mechanism for converting a rotation movement of the rotary wheel member into a back and forth movement of the photographing optical system elements relative to the image plane (col. 2 lines 58-68).

Regarding claims 13 and 26, Yamazaki teaches the rotary wheel member comprises a rotary wheel cylinder in which a lens barrel is housed so as to be movable along the central axis

of the rotary wheel cylinder (Fig. 3), the photographing optical system is housed in the lens barrel; the second movement conversion mechanism comprises a first cam groove formed in one of the rotary wheel cylinder and the lens barrel; and a first cam follower formed in the other of the rotary wheel cylinder and the lens barrel; and the first cam groove is formed in such a manner that a rotational movement of the rotary wheel cylinder is converted into a back and forth movement of the lens barrel along the central axis of the rotary wheel cylinder (Fig. 3; col. 2 lines 58-68).

Regarding claims 14 and 27, Yamazaki teaches the rotary wheel member comprises a rotary wheel cylinder in which a lens barrel is housed so as to be movable along the central axis of the rotary wheel cylinder (Fig. 3), the observation optical system is housed in the lens barrel; the first movement conversion mechanism comprises a second cam groove formed in one of the rotary wheel cylinder and the lens barrel; and a second cam follower formed in the other of the rotary wheel cylinder and the lens barrel; and the second cam groove is formed in such a manner that a rotational movement of the rotary wheel cylinder is converted into a back and forth movement of the lens barrel along the central axis of the rotary wheel cylinder (Fig. 3; col. 2 lines 58-68).

Regarding claims 15 and 28, Yamazaki teaches the pair of observation optical systems are mounted on an optical system mount plate that comprises a first and second plates that are movable relative to each other, one of the pair of observation optical systems is placed on the first plate and the other of the pair of optical systems is placed on the second plate, so that the distance between the optical axes of the pair of observation optical systems is adjusted by changing the relative positions of the first and second plates (Fig. 3; col. 2 lines 55-57).

Regarding claims 16 and 29, Yamazaki teaches the first and second plates are linearly moved relative to each other so that the optical axes of the pair of observation are moved in a predetermined plane, whereby the distance between the optical axes of the pair of observation optical systems is changed (col. 2 lines 55-57).

Claims 4-11 and 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki (US 4,067,027) in view of Land (US 3,622,242).

Regarding claims 4-9 and 17-22, Yamazaki teaches the invention as claimed but lacks specific characteristics of the reticle. Land teaches the reticle comprise at least one line segment (Fig. 3c). Land further teaches the reticle comprises at least two line segments extending radially from the optical axes (Fig. 3c). Land further teaches the reticle forming a circular area encircling the optical axes (Fig. 3c). Land further teaches the reticle comprises a geometric figure in the center of which is coincident with the optical axis of the observation optical system (Fig. 3c). Land further teaches the reticle comprises at least one dot (Fig. 3c). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the reticle of Yamazaki have the structure of the Land reticle for the purpose of allowing light to propagate through the pair of observation optical systems.

Regarding claims 10, 11, 23 and 24, Yamazaki teaches the invention as claimed but lacks specific characteristics of the reticle. Land teaches a reticle comprising at least one dot (Fig. 3c). It is within the ability of one of ordinary skill in the art to duplicate a part. Therefore one of ordinary skill in the art would find it obvious to make the one dot of Land a plurality of dots for the purpose of creating a pixel pattern to be recorded by the photographing function of the Land

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invention. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the reticle of Yamazaki have the structure of the Land reticle for the purpose of allowing light to propagate through the pair of observation optical systems and form a pixel pattern to be recorded by the photographing optical system.

Response to Arguments

Applicant's arguments, see Amendment, filed March 15, 2005, with respect to the rejection(s) of claim(s) 1-3 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 35 U.S.C. 103. Applicant argued that the prior art did not inherently teach the use of a fused reticle image or image symmetry. The examiner agrees that the prior art does not inherently teach the fused reticle image or image symmetry; however the examiner feels that image symmetry and a fused reticle image would be obvious to one of ordinary skill in the art based upon the teachings of the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP

JP



DREW A. DUNN
SUPERVISORY PATENT EXAMINER